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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/046,526 | 01/10/2002 | Guoqing Chen | A-735A | 3463 |

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U.S. Patent Operations/JWB
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[REDACTED] EXAMINER

PATEL, SUDHAKER B

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

1624

DATE MAILED: 05/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|--|--------------------------------------|
| Office Action Summary | Application No. 10/046,526 | Applicant(s) Guoqing et al |
| | Examiner SUDHAKER PATEL,D.Sc.Tech. | Art Unit 1624 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Nov 27, 2002
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims 1-17 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) Interview Summary (PTO-413) Paper No(s). _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims(in part) 1,2,6,11,12,13-17 are drawn to compounds, compositions, and a method of use for Formula I' of generic claim 1 wherein component A = Pyrazine, Pyrimidine, Triazine, Pyridazine, classified in class 544, subclasses various depending on the nature of the substituents R1-R3 and bridges X, Y. If this group is elected a single species from working examples must be disclosed with all variables exactly defined. Further restriction will be required as there are many unknowns.
 - II. Claims(in part) 1-17, drawn to compounds, compositions, and a method of use for Formula I' of generic claim 1 wherein component A = Pyridine , classified in class 546, subclasses various depending on the nature of the substituents R1-R3 and bridges X, Y. If this group is elected a single species from working examples must be disclosed with all variables exactly defined.
 - III. Claims(in part) 1,2,11-17, drawn to compounds, compositions, and a method of use for Formula I' of generic claim 1 wherein component A = Pyrrole, Thiazole, Oxazole, Imidazole, Pyrazole, Isoxazole, Triazole, Isothiazole, Imisazole , classified in class 548, subclasses various depending on the nature of the

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substituents R1-R3 and bridges X, Y. If this group is elected a single species from working examples must be disclosed with all variables exactly defined. Further restriction will be required as there are many unknowns.

IV. Claims(in part) 1,2,11-17, drawn to compounds, compositions, and a method of use for Formula I' of generic claim 1 wherein component A = Thien, Furane, classified in class 549, subclasses various depending on the nature of the substituents R1-R3 and bridges X, Y. If this group is elected a single species from working examples must be disclosed with all variables exactly defined.

V. Claims(in part) 1-17, drawn to compounds, compositions, and a method of use for Formula I' of generic claim 1 wherein component A = rings not included in above Groups I-IV classified in various classes, subclasses various depending on the nature of the substituents R1-R3 and bridges X, Y. If this group is elected a single species from working examples must be disclosed with all variables exactly defined.

2. The inventions are distinct, each from the other because of the following reasons:

- The claims are drawn to structurally dissimilar compounds;
- The compounds are classified separately;
- The compounds require separate literature searches;
- The compounds are not art recognized equivalents, and
- They are made and used independently.

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Additionally, the scope that a prior art anticipating one compound under 35 U.S.C. 102 would not render obvious another compound of the same claim under 35 U.S.C. 103.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II-V , restriction for examination purposes as indicated is proper.

5. Claims 1, 11, 12,13 are generic to a plurality of disclosed patentably distinct species comprising A component making a 5-membered heteroaryl ring with 1 N(= pyrrole), with 2N (= 1,2-diazole; A component making 6-membered heteroaryl ring with 1N (= pyridine), with 2 N (= 1,2-diazine). Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. A telephone call was made to Mr.Bulock on 5/12/03 to request an oral election to the above restriction requirement, but did not result in an election being made

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(l).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sudhaker Patel,D.Sc.Tech. whose telephone number is (703) 308 4709.

The examiner can normally be reached on Monday thru' Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by the phone are unsuccessful, the examiner's supervisor, Dr.Mukund Shah can be reached at (703) 308 4716 or Sr. Examiner Mr. Richard Raymond at (703) 308 4523.

A facsimile center has been established for Group 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machine are (703) 308-4556 or (703) 305-3592.

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 1235.

Mukund J. Shah
MUKUND J. SHAH
SUPERVISORY PATENT EXAMINER
GROUP 1600

S.p. May 13, 2003.
S. P. D. S.